

### **REMARKS**

Claims 1-30, 32-35, and 37-39 are currently pending, of which claims 21, 22, 25-30, 34, and 35 have been withdrawn from consideration. Claims 1, 32, and 33 are currently amended. Claims 31 and 36 are cancelled. Reconsideration of presently pending claims is respectfully requested in light of the following remarks.

### **Rejections Under §102**

#### *Morrison*

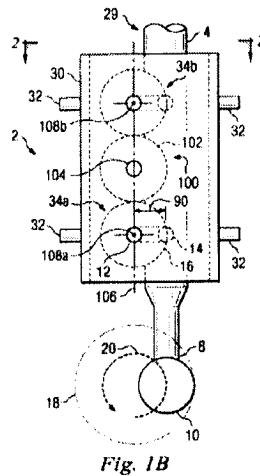
Claims 37-39 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Pat. No. 3,978,862 to Morrison ("Morrison"). The PTO provides in MPEP § 2131 that "[t]o anticipate a claim, the reference must teach every element of the claim..." Morrison, however, does not disclose many limitations of independent claim 37 including:

- "a first pin extending between the bone removal device and the first intermediate body, and a second pin extending between the first intermediate body and the guide body, wherein the first and second pins are maintained in parallel alignment;"
- "a third pin extending between the bone removal device and the second intermediate body, and a fourth pin extending between the second intermediate body and the guide body, wherein the third and fourth pins are maintained in parallel alignment;" and
- "the first pin is movably guided in an at least partially orbital path about a central axis extending axially through the second pin and through the guide body."

The present Office Action has identified "gear 37" as corresponding to the first guide system and has identified the pin through the center of gear 37" as corresponding to the first pin. The present Office Action, however, does not identify a "second pin extending *between the first intermediate body and the guide body, wherein the first and second pins are maintained in parallel alignment.*" The Office Action goes on to identify pins associated with gears 38" and 81", but does not identify, "a fourth pin *extending between the second intermediate body and the guide body, wherein the third and fourth pins are maintained in parallel alignment.*" In other words, Morrison does not disclose first and second pins associated with the first intermediate body and third and fourth pins associated with the second intermediate body. The identified gear

37", for example, has only a single shaft (labeled 29 in an alternative embodiment), not first and second pins which are maintained in parallel alignment. Because Morrison does not disclose the gear 37" having first and second pins, it also does not disclose the first pin orbital about a central axis through the second pin.

Fig. 1B, below, of the present application depicts one example of a first intermediate body (34a) having pins (12, 14) which are maintained in parallel alignment as claimed. This is merely one example, for illustrative purposes only, and is not intended to further limit the scope of the claim.



For at least these reasons, independent claim 37 and claims 32, 33, and 38-39 which depend from and further limit claim 37 are believed to be in condition for allowance.

### **Rejections Under §103**

#### *Dietz in view of Zarnowski*

Claims 1-15, 17-18, 20, and 23-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,653,714 to Dietz et al. ("Dietz") in view of U.S. Pat. No. 4,892,093 to Zarnowski et al. ("Zarnowski").


The present Office Action states, "claims 1-20, 23-24, and 31-33 have been considered but are moot in view of the new ground(s) of rejection," but no new grounds of rejection were presented for claims 1-20 and 23-24. The present rejection of the claims was identical to the rejection presented in the prior Final Office Action dated January 30, 2007.

Dietz in combination with Zarnowski does not disclose all of the limitations of claim 1, as amended. Specifically, neither Dietz nor Zarnowski nor the combination teach, “a pair of guide members movably engaged between said guide body and said bone removal device, said guide members substantially aligned along an alignment axis substantially parallel to the longitudinal axis of the bone removal device, *wherein neither the alignment axis nor the longitudinal axis extend over the other*” as recited in amended claim 1. In both Dietz and Zarnowski, the axis of the guide member is not parallel to the axis of the bone removal device, but rather extends over the axis of the bone removal device. For at least this reason, independent claim 1 and dependent claims 2-20, 23 and 24 are believed to be in condition for allowance.

**Conclusion**

In view of the foregoing amendments and explanations, the Applicant respectfully request further and favorable consideration of the present application. If the Examiner believes that examination of this application may be advanced in any way by a telephone conference, the Examiner is invited to telephone the undersigned attorney at 972-739-8640. No extension of time fees are believed necessary for consideration of the present paper. However, if any fees, including extension of time fees, are necessary, the extension of time is hereby requested, and the Commissioner is hereby authorized to charge any fees, including those for the extension of time to Haynes and Boone, LLP's Deposit Account No. 08-1394.

Respectfully submitted,



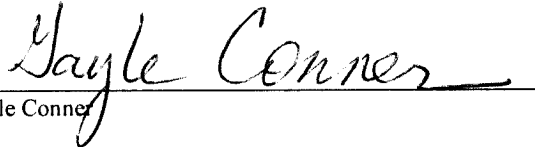
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Gayle Conner

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